

HOUSE BILL No. 1516

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-1-9; IC 5-2-15.

Synopsis: Racial profiling in traffic stops. Prohibits a municipal, county, or state law enforcement agency from engaging in racial profiling. Requires a law enforcement agency to adopt a detailed policy that defines the elements of racial profiling. Requires cultural diversity awareness training as a part of the mandatory inservice training.

Effective: Upon passage; July 1, 2005.

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January 18, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1516

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-1-9, AS AMENDED BY P.L.62-2004,
2 SECTION 1, AND AS AMENDED BY P.L.85-2004, SECTION 40, IS
3 CORRECTED AND AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in
5 accordance with IC 4-22-2 all necessary rules to carry out the
6 provisions of this chapter. Such rules, which shall be adopted only after
7 necessary and proper investigation and inquiry by the board, shall
8 include the establishment of the following:
9 (1) Minimum standards of physical, educational, mental, and
10 moral fitness which shall govern the acceptance of any person for
11 training by any law enforcement training school or academy
12 meeting or exceeding the minimum standards established
13 pursuant to this chapter.
14 (2) Minimum standards for law enforcement training schools
15 administered by towns, cities, counties, the northwest Indiana law
16 enforcement training center, agencies, or departments of the state.
17 (3) Minimum standards for courses of study, attendance



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requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (1), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for

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the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy, *at the southwest Indiana law enforcement training academy under section 10.5 of this chapter*, or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a

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1 minimum of sixteen (16) hours each year of inservice training in any
 2 subject area included in the law enforcement academy's basic training
 3 course or other job related subjects that are approved by the board as
 4 determined by the law enforcement department's or agency's needs.
 5 *Inservice training must include training in interacting with persons*
 6 *with mental illness, addictive disorders, mental retardation, and*
 7 *developmental disabilities, to be provided by persons approved by the*
 8 *secretary of family and social services and the law enforcement*
 9 *training board, and cultural diversity awareness.* In addition, a
 10 certified academy staff may develop and make available inservice
 11 training programs on a regional or local basis. The board may approve
 12 courses offered by other public or private training entities, including
 13 colleges and universities, as necessary in order to ensure the
 14 availability of an adequate number of inservice training programs. The
 15 board may waive an officer's inservice training requirements if the
 16 board determines that the officer's reason for lacking the required
 17 amount of inservice training hours is due to any of the following:

- 18 (1) An emergency situation.
- 19 (2) The unavailability of courses.

20 (h) The board shall also adopt rules establishing a town marshal
 21 basic training program, subject to the following:

- 22 (1) The program must require fewer hours of instruction and class
- 23 attendance and fewer courses of study than are required for the
- 24 mandated basic training program.
- 25 (2) Certain parts of the course materials may be studied by a
- 26 candidate at the candidate's home in order to fulfill requirements
- 27 of the program.
- 28 (3) Law enforcement officers successfully completing the
- 29 requirements of the program are eligible for appointment only in
- 30 towns employing the town marshal system (IC 36-5-7) and having
- 31 ~~no~~ **not** more than one (1) marshal and two (2) deputies.
- 32 (4) The limitation imposed by subdivision (3) does not apply to an
- 33 officer who has successfully completed the mandated basic
- 34 training program.
- 35 (5) The time limitations imposed by subsections (b) and (c) for
- 36 completing the training are also applicable to the town marshal
- 37 basic training program.

38 (i) The board shall adopt rules under IC 4-22-2 to establish a police
 39 chief executive training program. The program must include training
 40 in the following areas:

- 41 (1) Liability.
- 42 (2) Media relations.

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(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; and

(2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or

(2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 2. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 15. Prohibition Against Racial Profiling

Sec. 1. As used in this chapter, "law enforcement agency" means the following:

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- (1) A city or town police department.
- (2) A town marshal system.
- (3) A sheriff's department.
- (4) The state police department.
- (5) The law enforcement division of the department of natural resources.
- (6) The excise police division of the alcohol and tobacco commission.
- (7) A state university police department.

Sec. 2. As used in this chapter, "racial profiling" means the:

- (1) detention;
- (2) official restraint; or
- (3) other disparate treatment;

of an individual solely on the basis of the racial or ethnic status of the individual.

Sec. 3. A law enforcement agency may not engage in racial profiling.

Sec. 4. The race or ethnicity of an individual may not be the sole factor in:

- (1) determining the existence of probable cause to take into custody or to arrest an individual; or
- (2) constituting a particularized suspicion that an offense has been or is being committed in order to justify the detention of an individual or the investigatory stop of a motor vehicle.

Sec. 5. (a) Not later than January 1, 2006, a law enforcement agency shall adopt a detailed written policy that:

- (1) prohibits racial profiling;
- (2) clearly defines the elements constituting racial profiling; and
- (3) includes a procedure that the law enforcement agency will use to address complaints concerning racial profiling.

(b) The law enforcement agency must make the policy available for public inspection during normal business hours.

Sec. 6. If an investigation of a complaint of racial profiling reveals that a police officer was in direct violation of the law enforcement agency's written policy prohibiting racial profiling, the law enforcement agency shall take appropriate action against the police officer consistent with the applicable rules, ordinances, or policies of the law enforcement agency.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The law enforcement training board must adopt rules that implement cultural awareness training required as a part of mandatory

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- 1 inservice training under IC 5-2-1-9, as amended by this act, not
- 2 later than January 1, 2007.
- 3 (b) This SECTION expires January 2, 2007.
- 4 SECTION 4. An emergency is declared for this act.

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